

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ARIE OHAYON on behalf of himself and  
other similarly situated,

Plaintiff,

INDEX NO. 11 CV 0732

Jones, J.  
Freeman, M.J.

v.

THE DINEX GROUP LLC & DANIEL  
BOULUD,

Defendants.  
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STIPULATION AND (PROPOSED) ORDER

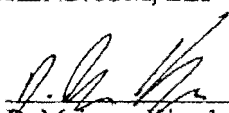
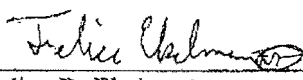
IT IS HEREBY STIPULATED AND AGREED, by and between the Parties in the above captioned action, that:

- (A) Notice of Pendency of this Lawsuit and opt-in forms shall be sent to all non-exempt tipped employees who were employed at DB Bistro and/or Café Boulud between May 1, 2008 and May 1, 2011 ("FLSA Collective Members");
- (B) Defendants shall furnish to the designated third party administrator a list containing the names and last known addresses of all FLSA Collective Members and shall cause the third party administrator to send the Notice of Pendency of this Lawsuit to the FLSA Collective Members within 20 days following the date the Court "So Orders" this Stipulation;
- (C) Notice shall be provided in the forms attached hereto as Exhibits "A" and "B", as applicable;

- (D) Notice, together with stamped return envelopes addressed to Plaintiffs' Counsel, shall be sent to all FLSA Collective Members utilizing the United States Postal Service via First Class Mail. Defendants shall bear the costs associated with sending Notice, and Plaintiff shall bear the cost of postage and return envelopes;
- (E) Copies of the Consent To Join form appended hereto as Exhibit "C" shall be sent to putative FLSA Collective Members along with the Notice. Opt-in forms shall be returned to Plaintiff's counsel;
- (F) The form of Notice and Consent to Join shall be translated from English to Spanish, the cost of which translation will be split evenly between Plaintiffs and Defendants. Notice and Consent to Join will be sent to Putative FLSA Collective Members in both English and Spanish; and
- (G) Defendants reserve their right to oppose certification of the collective action following the close of discovery in this matter.

Dated: New York, New York  
May 16, 2011

Respectfully submitted,

<p>JOSEPH, HERZFELD, HESTER &amp; KIRSCHENBAUM, LLP</p> <p>By:  D. Maimon Kirschenbaum Denise A. Schulman</p> <p>Joseph, Herzfeld, Hester &amp; Kirschenbaum, LLP 757 Third Avenue, 25<sup>th</sup> Floor New York, New York 10017 (212) 688-5640</p> <p><i>Attorneys for Plaintiff and the FLSA Collective Class</i></p>	<p>JACKSON LEWIS LLP</p> <p>By:  Felice B. Ekelman Noel P. Tripp</p> <p>Jackson Lewis LLP 666 Third Avenue, 30th Floor New York, New York 10038-4502 (212) 545-4000</p> <p><i>Attorneys for Defendants</i></p>
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SO ORDERED: DATE: 5/20/10

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DEBRA FREEMAN  
UNITED STATES MAGISTRATE JUDGE